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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**Case No. 17-cv-00814**

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PARANEE SARIKAPUTAR, and  
PHOUVIENGSONE SYSOUVONG,  
a/k/a Tukta Phouviengsone,  
*on behalf of themselves and others similarly situated*  
Plaintiffs,

v.

VERATIP CORP  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
J AKIRA LLC  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
THAINY RESTAURANT LLC  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
NINETY-NINE PLUS CORP  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
9999 MIDTOWN CORP  
d/b/a ThaiNY,  
d/b/a M-Thai,  
d/b/a Thai Rice and  
d/b/a Tom Yum;  
PERAPONG CHOTIMANENOPHAN  
a/k/a Peter Chotimanenophan;  
MICHAEL P BRONSTEIN and  
CHARDENPONG OONAPANYO,

Defendants.

**AFFIDAVIT OF SUPUNNEE  
SUKASAETT IN SUPPORT  
OF PLAINTIFFS' MOTION  
FOR CONDITIONAL  
COLLECTIVE  
CERTIFICATION**

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I, SUPUNNEE SUKASAETT, being duly sworn and under penalty of perjury, deposes and states as follows:

1. I am a resident of Queens, New York, and I am over 18 years of age.
2. I have personal knowledge of the matters stated below.
3. ThaiNY has two locations:
  - a. “Thainy Downtown” at: 394 Third Avenue, New York, NY 10016.
  - b. “Thais New York Uptown” at: 1750 2<sup>nd</sup> Avenue, New York, NY 10128 (formerly located at 1718 2<sup>nd</sup> Avenue, New York, NY 10128).
4. M-Thai also has two locations:
  - a. “M-Thai 1” at 232 Eighth Avenue, New York, NY 10011; and
  - b. “M-Thai 2” at 200 Eighth Avenue, New York, 10011.
5. Thai Rice is located at 165 West 23<sup>rd</sup> Street, New York, NY 10011.
6. From on or about January 01, 2010 to November 24, 2016, I worked as a chef for Thainy Uptown, M-Thai 1, M-Thai 2, and Thai Rice.
7. During the entirety of my work with these restaurants, I was never paid spread-of-hours for all days in which she worked over ten (10) hours in a workday.
8. During the entirety of my work with these restaurants, I never received a Time of Hire Notice in English and in Thai (my primary language) reflecting true rates of pay and payday.
9. I also never received any paystubs, not to say a comprehensive one that lists employee’s name, employer’s name, employer’s address and telephone number, employee’s rate or rates of pay, any deductions made from employee’s wages, any allowances claimed as

part of the minimum wage, and the employee's gross and net wages for each pay day in English and in Thai (my primary language), as required by NYLL §195(1).

10. I never saw the required minimum wage poster.

11. From January 01, 2010 to July 22, 2012, I worked for Thainy Uptown:

a. From 11:00 to 23:00 for twelve (12) hours a day, with no break, on Tuesdays, Wednesdays, Thursdays, and Sundays for four (4) days and forty eight (48) hours a week;

b. From 11:00 to 24:00 for thirteen (13) hours a day, with no break, on Fridays and Saturdays for two (2) days and twenty six (26) hours a week; and

c. With Mondays off.

12. From January 01, 2010 to July 22, 2012, I worked around seventy four (74) hours a week.

13. From on or about January 01, 2010 to December 31, 2010, I was paid at a rate of one hundred and five dollars (\$105) per day for one (1) year.

14. Thereafter, between January 01, 2011 and July 22, 2012, I was raised by five dollars (\$5) per day every three (3) to six (6) months, to one hundred ten dollars (\$110) per day, then one hundred fifteen dollars (\$115) per day, one hundred twenty dollars (\$120) per day, one hundred twenty five dollars (\$125) a day, one hundred thirty dollars (\$130) per day, one hundred thirty five dollars (\$135) a day.

15. Finally, I was raised to one hundred fifty dollars (\$150) a day.

16. By my last day at Thainy Uptown, I already had the one hundred fifty dollar (\$150) per day rate for a few days.

17. In fact, I had this rate for a few months before I was asked by PERAPONG CHOTIMANENOPHAN a/k/a Peter Chotimanenophan to transfer to M-Thai 1 on July 23, 2013.

18. From on or about July 23, 2012 to October 30, 2015, I worked as a chef for M-Thai 1.

19. From on or about July 23, 2012 to October 30, 2015, I worked for M-Thai 1:

a. From 11:00 to 23:00 for twelve (12) hours a day with no break, on Tuesdays, Wednesdays, Thursdays, and Sundays for four (4) days and forty eight (48) hours a week;

b. From 11:00 to 24:00 for thirteen (13) hours a day, with no break, on Fridays and Saturdays for two (2) days and twenty six (26) hours a week; and

c. With Mondays off.

20. From on or about July 23, 2012 to October 30, 2015, I worked around seventy four (74) hours a week.

21. From on or about July 23, 2012 to October 30, 2015, I was paid at a rate of one hundred fifty dollars (\$150) per day.

22. Around this time, I was asked by PERAPONG CHOTIMANENOPHAN a/k/a Peter Chotimanenophan work for M-Thai 2 and Thai Rice.

23. From on or about November 01, 2015 to November 24, 2016, I worked as a chef for M-Thai 2 and Thai Rice, with one (1) day at Thai Rice and the remaining at M-Thai2.

24. From on or about November 01, 2015 to July 14, 2016, I worked for M-Thai 2 and Thai Rice:

a. From 11:00 to 23:00 for twelve (12) hours a day with no break, on Tuesdays, Wednesdays, Thursdays, and Sundays for four (4) days and forty eight (48) hours a week;

b. From 11:00 to 24:00 for thirteen (13) hours a day, with no break, on Fridays and Saturdays for two (2) days and twenty six (26) hours a week; and

c. With Mondays off.

25. While there is a two and a half hour “break” at Thai Rice, I have had to do side work doing my break, including spring rolls, dumpling sauce, peanut sauce, appetizer, and the cooking sauce, and the cucumber sauce, and the plum sauce, making a different sauce each day.

26. From on or about November 01, 2015 to July 14, 2016, I worked for M-Thai 2 and Thai Rice:

a. From 11:00 to 23:00 for twelve (12) hours a day with no break, on Tuesdays, Wednesdays, Thursdays, and Sundays for four (4) days and forty eight (48) hours a week;

b. From 11:00 to 24:00 for thirteen (13) hours a day, with no break, on Fridays and Saturdays for two (2) days and twenty six (26) hours a week; and

c. With Mondays off.

27. While there is a two and a half hour “break” at Thai Rice, I have had to do side work doing my break, including spring rolls, dumpling sauce, peanut sauce, appetizer, and the cooking sauce, and the cucumber sauce, and the plum sauce, making a different sauce each day.

28. As a result, from on or about November 01, 2015 to July 14, 2016, I worked around seventy four (74) hours a week.

29. From on or about November 01, 2015 to July 14, 2016, I continued to be paid at a rate of one hundred fifty dollars (\$150) per day.

30. From on or about July 15, 2016 to August 31, 2016, I worked for M-Thai 2 and Thai Rice:

a. From 12:00 to 22:30 for ten and a half (10.5) hours a day with no break, on Tuesdays, Wednesdays, and Thursdays for five (5) days and fifty two and a half (52.5) hours a week;

b. With Mondays and Sundays off.

31. While there is a two and a half hour “break” at Thai Rice, I have had to do side work doing my break, including spring rolls, dumpling sauce, peanut sauce, appetizer, and the cooking sauce, and the cucumber sauce, and the plum sauce, making a different sauce each day.

32. From on or about July 15, 2016 to August 31, 2016, I continued to be paid at a rate of one hundred fifty dollars (\$150) per day.

33. From on or about September 01, 2016 to November 24, 2016, I worked for M-Thai 2 and Thai Rice:

a. From 12:00 to 22:30 for ten and a half (10.5) hours a day with no break, on Tuesdays, Wednesdays, and Thursdays between four (4) to five (5) days a week.

b. With Mondays and Sundays off.

34. Though I worked for between four (4) to five (5) days a week, I worked more four (4) days a week than five (5) days a week.

35. While there is a two and a half hour “break” at Thai Rice, I have had to do side work doing my break, including spring rolls, dumpling sauce, peanut sauce, appetizer, and the cooking sauce, and the cucumber sauce, and the plum sauce, making a different sauce each day.

36. From on or about September 01, 2016 to November 24, 2016, I continued to be paid at a rate of one hundred fifty dollars (\$150) per day.

37. While there is a two and a half hour “break” at Thai Rice, I have had to do side work doing my break, including spring rolls, dumpling sauce, peanut sauce, appetizer, and the cooking sauce, and the cucumber sauce, and the plum sauce, making a different sauce each day.

38. While there is a two and a half hour “break” at Thai Rice, I have had to do side work doing my break, including spring rolls, dumpling sauce, peanut sauce, appetizer, and the cooking sauce, and the cucumber sauce, and the plum sauce, making a different sauce each day.

39. From on or about September 01, 2016 to November 24, 2016, I continued to be paid at a rate of one hundred fifty dollars (\$150) per day.

40. During the entirety of this time, I was never informed of my hourly rate or what my hourly rate would be if I worked more than forty (40) hours each week, whether verbally or in writing, whether in English or in Thai.

41. During the entirety of this time, I also never received any paystub, whether at the time when I received pay nor any time afterwards.

42. During the entirety of this time, whenever there was a day in which my start time and my end time spanned over ten (10) hours, I was never paid an extra hour of pay.

43. From on or about January 01, 2010 to July 22, 2012 at Thainy Uptown, and from July 23, 2012 to October 2012 at M-Thai 1, I was paid every week by the Manager, on a Friday in cash.

44. Thereafter, from October 2012 till the end of my employment on November 24, 2016, I was paid in check.

45. Many of the kitchen workers also have the almost the same work schedule as me.

46. I am familiar with the schedule because every Friday the restaurant posts a new schedule for everyone at the restaurant, including for kitchen workers, waiters, and deliverymen.

47. Everyone at the kitchen and everyone delivering was paid a daily rate.

48. All the kitchen workers and the deliverymen that I know over my many years working at Thainy Uptown, M-Thai 1, M-Thai 2, and Thai Rice were not paid any overtime if we worked more than forty (40) hour a week.

49. Below I describe in detail my co-workers, many of whom work at multiple locations:

50. JULIAN JIGUAN is a Hispanic and Spanish-speaking deliveryman from Mexico.

51. I know JULIAN JIGUAN from working with him for more than two (2) years, and because I recommended him to start work at Thainy Uptown.

52. JULIAN JIGUAN worked for both Thainy Uptown and ThaiNY Downtown, and some days he worked for M-Thai 1 as well.

53. He works for Thainy Uptown, ThaiNY Downtown and M-Thai 1 at different times: sometimes he works at one restaurant a week, sometimes three restaurants a week, as the schedule changes every week.



54. Though his schedule varies each week, JULIAN JIGUAN works for at least five (5) days each week.

55. Each day, while working at Thainy Uptown, JULIAN JIGUAN would work from 11:30 to 15:30 and again from 17:30 to 23:00 for nine and a half (9.5) hours a week and at least five (5) days a week for at least forty seven and a half (47.5) hours a week.

56. MANUEL VICTORIO is a Hispanic and Spanish-speaking deliveryman from Mexico.

57. People at the restaurant know him as MANY.

58. MANUEL VICTORIO worked at various times at ThaiNY Downtown, Thainy Uptown, M-Thai1, M-Thai 2, and Thai Rice.

59. I know MANUEL VICTORIO received one hundred fifteen (\$115) a day when he first got started, which was around one (1) year after I started working at Thainy Uptown.

60. I know because I am friends with MANUEL VICTORIO and I worked side by side with him.

61. MANUEL VICTORIO's last pay was one hundred thirty dollars (\$130) per day.

62. MANUEL VICTORIO worked from 11:00 to 22:00 or from 12:00 to 23:00 for eleven (11) hours a day for at least five (5) days or fifty five (55) hours a week.

63. For instance, DANY VILLANUEVA, a Hispanic and Spanish-speaking worker from Mexico, worked from 12:00 to 23:00 for eleven (11) hours a day for five (5) days and fifty five (55) hours a week.

64. DANY VILLANEUVA works for ThaiNY Downtown and M-Thai2.

65. DANY VILLANUEVA is friends with ANGEL M. MORALES, who came to me one day and told me that ANGEL M. MORALES has come to seek a job, that ANGEL M. MORALES is a good worker, and want to see if he might be the dishwasher.

66. That is how I know ANGEL M. MORALES began with ninety dollars (\$90) a day, though I am not sure how much his wage was thereafter.

67. ANGEL M. MORALES was not happy about his wage.

68. I know that because DANY VILLANUEVA wanted to talk salary for ANGEL M. MORALES.

69. ANGEL M. MORALES worked from 11:00 to 23:00, with break from 15:00 to 17:00, though he also need to work during the break.

70. ALFREDO PENDENTE, another Hispanic and Spanish-speaking worker from Mexico, also worked around the same schedule, also for at least five (5) days a week.

71. FELIX SEREZO is a dishwasher who worked at ThaiNY downtown and then at Thai Rice until the restaurant closed.

72. I know this because when I switched to Thai Rice, FELIX SEREZO was already working there.

73. MUAY is a Thai female who worked as an appetizer at ThaiNY downtown and then work at Thai Rice.

74. MUAY receives at least one hundred fifty dollars (\$150) a day.

75. I know that tipped workers like deliverymen were also not paid for their overtime, but are instead paid a daily rate of less than eighty dollars (\$80) each day.

76. PEDRO COJ CUMES, JOSE SULUGUI, and JUAN SULUIGUI are three (3) Hispanic and Spanish-speaking deliverymen from Guatemala who worked for M-Thai 2.

77. PEDRO COJ CUMES, JOSE SULUGUI and JUAN SULUIGUI worked from 11:30 to 23:00 for at least five (5) days a week.

78. I know they receive less than eighty dollars (\$80) per day because they would show me checks where they have received less than three hundred dollars (\$300) per week, and ask me why the salary is different every week.

79. BOONYARIT PRAPHAI is a Thai kitchen worker who worked at M-Thai 2 who worked from 11:00 to 23:00 with break between 15:00 to 17:00, though BOONYARIT actually has had to do side work during the break.

80. CHAMP is a Thai kitchen worker at M-Thai2.

81. CHAMP received around one hundred thirty dollars (\$130) a day because he has around six (6) month to one (1) year of experience when he started work at M-Thai2.

82. PA is a Thai female who works primarily for ThaiNY Downtown, but also sometimes work for M-Thai2 and Thai Rice, as an appetizer, in addition to working at the office for Defendants.

83. PA worked between five (5) to six (6) days a week.

84. PA received between one hundred twenty dollars (\$120) and one hundred thirty five dollars (\$135) each day.

85. I know this because she told me when I called into the office.

86. She told me that she worked one (1) to three (3) days each week at the kitchen and the rest of the day in the office.


87. She is responsible for helping the owner make up the schedule and the salary, and to take the salary to distribute and pay.

88. I sincerely hope that this Court allows me to represent the interest of my co-workers in this action. These Defendants exploited me and my co-workers, and it is my hope that we will be permitted to recover wages that we are owed.


89. This document has been translated to me in my native language of Thai, and I fully comprehend the contents.

Dated: June 19, 2018

Flushing, NY

SUPUNNEE   
SUPUNNEE SUKASAWETT

Sworn to me this 19<sup>th</sup> day of June, 2018

  
Notary Public

JOHN TROY  
Notary Public, State of New York  
No. 02TR6121824  
Qualified in Queens County  
Commission Expires 04/12, 2021